

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Tony Hammond, Vice Chairman;
Mark Acton;
Ruth Y. Goldway; and
Nanci E. Langley

Rules for Automatic Closure
of Inactive Dockets

Docket No. RM2015-8

PUBLIC REPRESENTATIVE COMMENTS

(June 8, 2015)

On May 4, 2015, the Commission issued a Notice of Proposed Rulemaking in this docket to simplify the docket closing process by permitting automatic closure of a docket where there has been no activity in the docket for at least 12 months.¹

I. BACKGROUND

Currently, the Commission neither has regulations permitting automatic closure of inactive dockets nor a standardized approach to closing inactive dockets. It has issued some orders closing long-standing dockets with periods of inactivity, while others remain technically active on the Commission's website.

The proposed rules would establish an inactive period of 12 months as the triggering event for an automatic docket closure. See Proposed § 3001.44(a). Interested persons (including participants, the Public Representative, or the Commission) would be provided with an opportunity to request that an inactive docket remain open for a

¹ Notice of Proposed Rulemaking Regarding Automatic Closure of Inactive Dockets, May 4, 2015 (Notice).

specified term not to exceed 12 months, however, the motion to stay must be filed at least 10 days to the automatic closure date. See Proposed § 3001.44(b). Additionally, any interested person (including participants, the Public Representative, or the Commission) may file a motion to reopen an automatically closed docket pursuant to the procedures set forth in § 3001.21. A motion to reopen an automatically closed docket “must set forth with particularity good cause for reopening the docket.” See Proposed § 3001.44 (c).

II. DISCUSSION

The Public Representative supports establishing rules to create more streamlined procedures for closing inactive dockets. Both the Commission and interested parties would benefit from the transparency of having a set period for inactive docket closures, as well as standardized procedures governing motions to stay closure or reopen inactive dockets. However, some modifications to the proposed rules are suggested below.

Clarifying “good cause”. Commission stakeholders could benefit from clarification as to what types of scenarios would be considered “good cause” to reopen an automatically closed docket in proposed § 3001.44 (c). Without such clarification, interested persons may not be aware that grounds for a motion to reopen exist. For example, in Medicare adjudications, good cause for reopening a matter may be established if new and material information arises or is discovered that was not available or known at the time of the determination. See 42 C.F.R. § 405.986(a). The Social Security Administration sets forth a similar standard for reopening a determination. See 20 C.F.R. § 404.989. Similarly, new or material/pertinent information that arises after the automatic closure may constitute grounds to reopen the docket pursuant to proposed § 3001.44 (c).

Commission discretion to reopen a docket or keep a docket open. Both proposed § 3001.44(b) and (c) explicitly include the Commission in its definition of interested parties or participants. The Public Representative notes that it may be administratively problematic for the Commission to file a motion to stay automatic

closure or a motion to reopen an automatically closed docket. Instead, both subparts should be revised to make clear that the Commission may, in its discretion, keep an inactive docket open or reopen a docket *sua sponte*.

Public Notice. The Public Representative agrees with the concurring opinion regarding the desirability of public notice for automatic closures. This notice need not be as formal as providing a notice to the Federal Register and a designated comment period. Rather, a section of the Commission's website could be devoted to broadcasting the inactive dockets up for automatic closure within the next six months, along with posting the deadline for parties to file a Motion to Stay. By such a notice, the Commission could achieve due process and transparency without significant administrative burden or loss of efficiency.

Respectfully submitted,

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